



Lamoine Board of Selectmen

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Minutes – October 22, 2015

Chair Gary McFarland called the meeting to order at 6:33 PM at the Lamoine Consolidated School gym.

Present were: Selectmen Heather Fowler, Bernie Johnson, Nathan Mason, Gary McFarland, S. Josephine Cooper; Administrative Assistant Stu Marckoon, Audience members included Kathleen Rybarz, Bruce Gillett, Catherine deTuede, Brett Jones, Carol Obert, Marilyn Lockhart, Carol Korty, C.W. Hemingway, Carlos Rosales, David Grasso, John Holt, David Sanderson, Nancy Pochan, Annie Crisafulli, Anne Gommel, Joseph Young Jr., Ray & Charlotte Stephens, Jim Norris, Brent Hutchins, Jon VanAmringe, Ray & Arlyss Becker, Larry and Lois Libby, David Schick, Brian Hubbell, Dale Macurdy, Fred Stocking, Jeff Cosulich, Bill Reynolds, Don Bamman, Amy Morley, Steve Callahan, Kathy Massimini, William & Carol Shubert, Dianne Nicholls, Anne Labossiere, Jacqueline Weaver, and Neila McIntyre.

Agenda Review – No changes were proposed to the printed agenda or addendum.

Minutes – October 8, 2015 – Bernie moved to approve the minutes of October 8, 2015 as presented. Nathan 2nd. **Vote in favor was 5-0.**

Expenditure Warrant 9 – Selectmen signed warrant 9 in the amount of \$112,364.93. Stu noted that \$82,000 was for the school department, and the first snow plowing bill of the season was included.

Cash & Budget Reports – There were no questions regarding the printed reports.

Tree Trimming Bids – Stu reported two bids were received by the 4PM deadline. Selectmen opened the bids. Harald Huebner bid \$20,000 total for Mill Road (\$7,200) and Shore Road (\$12,800). Berry Cove Gardens (Greg Gleason) bid \$13,800 total for Mill Road (\$5,600) and Shore Road (\$8,200). Jo moved to accept the bid from Berry Cove Gardens. Nathan 2nd. Bernie asked about Berry Cove Gardens. Stu said they cut back the Gully Brook Road and did an acceptable job. Nathan asked if the bid was in the ballpark for cost. Stu said that would be about what he'd expect. **Vote in favor was 5-0.**

Trash Transportation Contract – Stu reported he spoke with Casella Waste about extending the current transportation contract through the end of the PERC contract. He said the salesman said many communities are doing the same thing. He said he expects to see a proposal soon.

Draft MRC Contract – Stu reported the Municipal Review Committee has sent draft contracts out. He said he's not had a chance to review them yet, and there is plenty of time to act appropriately.

Traffic Light – Stu reported that Moulison Electric which is installing the traffic lights at Route 3 and 204 in Trenton contacted him to arrange for Emera Maine to hook up power. He said he's submitted the paperwork to Emera that the utility has requested, and it appears it is a complex process.

Transfer Station Fire – Stu reported that the transfer station manager's office suffered extensive damage in a fire on October 17, 2015. He said the insurance adjuster showed up Tuesday and that facilities maintenance director Rick Gallegos had estimated costs on materials and labor for reconstructing the office. Gary moved to authorize Stu to act as needed to make repairs to the office and electrical service. Bernie 2nd. **Vote in favor was 5-0.**

Corrected Town Meeting Warrant – Selectmen signed a corrected town meeting warrant for November 3, 2015. Stu noted the previous warrant contained an incorrect day reference (Thursday instead of Tuesday) to November 3, 2015.

Resignation of Cable TV Operations Manager – Jo moved to accept the resignation of Kendall Davis III as Cable TV Operations Manager as he is moving to Texas. Bernie 2nd. **Vote in favor was 5-0, Selectmen signed a letter to Mr. Davis.**

Shellfishing – Stu reported he'd received a telephone call from one of the resident commercial clam diggers indicating that the digger intended to start a petition to have Lamoine withdraw from the Regional Shellfishing Agreement. He said the digger was upset about enforcement of the ordinance and that most of the diggers were using the Lamoine flats. He said that he e-mailed the caller the section of the ordinance that deals with withdrawal, and is keeping Dick Fennelly in the loop.

Parks Commissioner – Stu reported that Marguerite (Maggie) Andros has offered to serve on the Parks Commission. Jo moved to appoint her, Gary 2nd. **Vote in favor was 5-0.**

Next Meeting Dates – The Selectmen will meet on November 12, 2015, December 3 & 17 2015, January 14 & 28, 2016 and February 11 and 25, 2016. Stu said he would likely ask the Selectmen to individually sign an expenditure warrant prior to the next meeting.

Public Hearing – Gravel Ordinance Referendum

Gary opened the hearing at 7:00 PM.

Brent Hutchins asked why a new ordinance was needed and how it would benefit the town. Gary answered with a brief history of what has taken place since March of 2013. Mr. Hutchins expressed concern that this would alter what a large majority of the town had approved. Brett Jones said it appeared Mr. Hutchins was referring to the amendment to the Building and Land Use Ordinance in 2014, not the Gravel Ordinance.

David Schick asked about the installation of monitoring wells and who verifies the data, and whether the Code Enforcement Officer can shut down an operation if invalid data is

received or the wells are not in place. John Holt said the ordinance requires testing to be done by certified laboratories and that the Code Enforcement Officer is able to issue a notice of violation and stop work order if the wells are not installed.

Kathleen Massimini said she has flown over the town and wondered how many acres are not reclaimed. Gary said that information is not known. He said reclamation is dealt with in the proposed ordinance.

Brett Jones asked about how many wells are dug into the aquifer as opposed to drilled bedrock wells. Mr. Holt said they don't have that number. He said most of the gravel pits are located in the sand and gravel aquifer. He said there are very few wells that are impacting anyone's home. He said the purpose of monitoring is to see if there is any long term adverse impact from gravel mining, and that a leak could be detected if it occurs.

Steve Callahan asked about restoration and when it would be done. Nathan explained the restoration requirements, and Stu provided more input on the restoration language.

CW Hemingway asked who wrote the ordinance that passed in 2013. Gary said the Planning Board drafted it and the Selectmen placed it on the town meeting warrant. Mr. Hemingway said that was correct. Gary said the Selectmen appointed a work group which help start the re-write process. Mr. Hemingway asked if the same people approved the new ordinance in 2015 as did the 2013 ordinance, and whether the vote to place the 2015 ordinance to town meeting was unanimous. Gary said it was. Mr. Hemingway said one of the Selectmen had a conflict of interest. Gary said she (Heather) had abstained from voting on the ordinance. Mr. Jones noted the Selectmen only approve of presenting the ordinance to the town for a vote.

Carol Obert said she is concerned about the duration of a permit increasing from three to five years. She said the town might have to wait longer to correct problems that might occur. Gary said the ordinance requires an annual inspection and water quality testing, and such problems would be caught within a year. Ms. Obert asked why 5-years was preferred. Gary answered that under the Building and Land Use Ordinance it's doubtful that any new pits could be approved. Stu answered that the Planning Board had suggested the longer permit life and that it was to the town's benefit.

David Sanderson asked whether the gravel pit operators would sue if the ordinance were turned down. Gary said the town has no knowledge whether they would or not. Mr. Sanderson asked if it was the fear of a lawsuit that prompted the proposed ordinance change. Jo said it was not fear; it was an effort to make responsible changes to the ordinance and to not recklessly spend money when there was no need to. Mr. Sanderson suggested that if the town wins any suit, the losers would pay the bill.

Bernie said everyone seems pitted against each other on the issue constantly for the past two years. He said it's all the Selectmen seems to have done. He said there have been vandalism and lawsuit threats and he hates to see the community in this situation.

Carlos Rosales asked what the consequences were of not passing the ordinance, and whether expensive lawsuits would result. Gary answered the town has not been threatened with any lawsuits one way or the other in regard to the proposed ordinance.

Annie Crisafulli asked if the reason gravel is so contentious is because 17 of the 20 pits are operated by non-residents. She asked how much monitoring has taken place since the 1980's. Gary said the Code Enforcement Officer annually inspects the pits. It was noted that the State of Maine periodically inspects the pits they license. Ms. Crisafulli asked how much restoration has taken place. Mr. Holt said he knows of one discontinued pit that was not reclaimed, and that belonged to the late Richard King, and is now the RF Jordan pit. Stu said there has been quite a bit of restoration that has taken place and mentioned the area behind the transfer station as a good example. Mr. Holt said in practicality, the pit limits are not reached and that it is frustrating to many that there is so much open pit area. He said the town could not return to a system it has never had. He said that gravel operators are required to restore areas they are no longer able to excavate. Ms. Crisafulli said wells are a way to know if things are going OK and asked what security there was that the wells are maintained and checked often enough. Gary said the reports come to the Planning Board and Code Enforcement Officer. He said the reports contain depth and water quality information.

Arluss Becker said she is concerned about reclamation and felt the town should be proactive to publicize the positive points about the ordinance. She said lawsuits drag everyone down, and she would like to avoid that. She said she is concerned about property values and she learned a lot by reading the proposed ordinance.

David Schick asked if there was a compendium of the well testing data. Stu said individual tests are submitted to the town. Mr. Schick asked if there should be a running tally of the data. Mr. Holt said the water quality testing just started in the 2013 ordinance, and there is data for only one year so far. He said he would be interested in putting the data on spreadsheets. He said the purpose of testing is to see if problems develop.

Don Bamman said there are aspects of the ordinance that he favored including the reclamation provisions, the five year permit, but he could not accept the proposed setback changes.

Ray Becker asked what happens if a pit fails a water test. Mr. Holt said he's not sure what is meant by failing. Stu said that if the excavation is too close to the water table the Code Enforcement Officer would issue a notice of violation to the pit operator to repair that.

Nancy Pochan asked why the setback provisions are proposed to change. Gary said the proposal is to return the setbacks to what they were prior to 2013, a grandfathering so to speak. He said the proposed setbacks would not apply to any new pits. Stu noted that with the return to the prior setbacks, there are some hoops that the pit owners have to jump through, including location of noise emitting equipment, slopes, and immediate restoration once the setback slope is reached.

Carol Korty said she is concerned that there is no penalty if there is no restoration that takes place, and that it was omitted from the proposed ordinance. She said she is concerned about how to keep track of when 1,000 yards of material is removed from an acre of land, and asked why the scope was doubled from 500 yards to 1,000 yards. Gary answered the Planning Board had a part in that and it had something to do with building homes and the potential that a gravel permit would be required on a larger home. Mr. Holt also addressed the 500 yard vs. 1,000 yard threshold.

There being no further testimony, Gary closed the public hearing at 8:05 PM.

The Selectmen conducted a brief budget workshop to review the proposed Administration and Solid Waste Budgets.

There being no further business, the meeting adjourned at 8:15 PM.

Respectfully submitted,

Stu Marckoon, Adm. Asst. to the Selectmen